

REMARKS

Claims 1, 3 – 19, 21, and 23 – 40 have been examined. Claims 1, 3, 4, 8 – 10, 13, 14, 16 – 19, 21, 23 – 27, and 31 – 40 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Pat. Publ. No. 2002/0016740 (“Ogasawara”) in view of U.S. Pat. Publ. No. 2002/0116265 (“Hernandez”); and Claims 5 – 7, 11, 12, 15, and 28 – 30 stand rejected over Ogasawara in view of Hernandez and further in view of U.S. Pat. Publ. No. 2003/0018522 (“Denimarck”).

The Office Action relies on Hernandez for the claim limitation of “recording which of such customers do not execute a transaction with the first entity.” Applicants respectfully disagree that this limitation is taught or suggested by Hernandez. What Hernandez teaches is “a customer sensor … placed at the entrance to [a] store [that] senses when a customer enters or leaves the store using the entrance” (Hernandez, ¶57). By collecting this information, Hernandez can estimate “the total number of customers visiting the store during a day [by] dividing the number of times the customer sensor sensed a customer and dividing that number by two” (*id.*, ¶57). The information collected is concerned only with the numbers of people visiting the store and not with *who* those individuals are — as described, the customer sensor in Hernandez lacks the capacity to identify who customers are.

Accordingly, Hernandez fails to disclose “recording which of such customers do not execute a transaction with the first entity” (emphasis added). It only provides information on the total number of customers who passed through the store entrance over a given time. As noted in the response to the previous Office Action, Ogasawara also fails to disclose “recording which of such customers do not execute a transaction with the first entity.” The invention as claimed thus provides yet more information than does even the combination of Ogasawara and Hernandez.

A variation of the limitation of “recording which of such customers do not execute a transaction with the first entity” is recited in each of the independent claims, including Claim 29, to which it has been added by amendment. Since this limitation is not disclosed in the

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cited art, it is believed that each of the independent claims is patentable and that the dependent claims are patentable by virtue of their dependence from patentable claims. Claim 31 has been amended to correct an obvious typographical error.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


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